Centering Race at the Medical-Legal Partnership in Hawai'i

Dina Shek*

* Associate Faculty Specialist, William S. Richardson School of Law, University of Hawai'i at Mānoa and Director, Medical-Legal Partnership in Hawai'i. I am deeply grateful to Professor Eric Yamamoto, Susan Serrano, and Avis Poai for their insights, encouragement, and review of drafts. Many thanks also to Professor Mari Matsuda, Professor Neil Gotanda, and MLP Staff Attorney Randy Compton for talking through many ideas developed in this paper. Thanks also to Katie Richards and Taylor Brack for invaluable research and editing assistance.

I. INTRODUCTION

> Observing [Medical-Legal Partnership in Hawai'i clinic] yesterday taught me that . . . once involved in social justice lawyering and participating heavily in client relationships, the lawyer must make the commitment to seeing the individual not merely as "disadvantaged" or "underserved," but as capable and teachable individuals. Any member of our community can be taught to advocate for themselves, conquer their fears of conflict and in turn, teach others to rise up and thereby perpetuate the cycle of empowerment and empowering others. . . .
>
> The lawyer must continually remind themselves that they are by no means a "savior." Rather, they are an "educator" and a "teacher" for the clients who are all too often taken advantage of – a teacher who empowers those with the education needed for making wise decisions for their lives and act as preventive measures for unfortunate and unjust situations.
>
> - Jessica "Jaycee" Uchida, MLP Hawai'i Clinic law student (Spring 2016)

When I first started running the Medical-Legal Partnership for Children in Hawai'i[1] in 2009, I embraced the motto of our partnering health center, Kōkua Kalihi Valley Comprehensive Family Services (KKV): "Neighbors being neighborly to neighbors."[2] This simple philosophy demanded a different approach than typical "top-down" lawyering that teaches lawyers to be experts, that says our time is valuable and shouldn't be wasted on non-legal matters, and that claims you can dissociate your work from your personal life. Being "neighborly" means that we see ourselves as connected to our clients, that we share knowledge

---

[1] The Medical-Legal Partnership for Children provides free legal services, self-advocacy training and education, and policy advocacy in community health settings. The Medical-Legal Partnership for Children is the first program site of the Medical-Legal Partnership in Hawai'i (MLP Hawai'i), which is a program of the William S. Richardson School of Law at the University of Hawai'i at Mānoa. MLP Hawai'i teaches rebellious and community lawyering practice alongside traditional lawyering skills to ensure an approach that is both immediately helpful (legal problem solving) and community centered (organizing and community engagement skills).

[2] KŌKUA KALIHI VALLEY, www.kkv.net (last visited Dec. 3, 2017); *See generally* Jamila Jarmon, *Neighborhood—The Smallest Unit of Health: A Health Center Model for Pacific Islander and Asian Health*, 40 POVERTY & RACE 13,13-16 (2011), for a discussion KKV's approach to neighborhood health.

as readily as food and banter, and that we embrace building meaningful relationships. This often means reaching across boundaries of race, language, socio-economic status, culture, and place.

Over time, I built a Medical-Legal Partnership (MLP) program based on rebellious lawyering principles of "working with, not only for, clients"[3]; investing in clients' capacity to self-advocate; and following the community's lead in policy matters.[4] This meant taking the time to listen to stories—stories of unfair treatment, stories of frustration and sadness, stories of success, and origin stories. Often, these were race stories. These stories ultimately centered my work; they educated me about clients' political histories, cultural beliefs and protocols, and perspectives, and I employed legal strategies that critically considered these racial realities, from the interpersonal to the institutional. When I began talking about hiring staff and expanding the model, I frequently heard things like, "It's nice that you work with communities, but it's not replicable because that approach is just your style." And "You can't expect others to do this. It's not realistic."[5] Ten years in—including seven years of teaching MLP Clinic and engaging law students since the early planning—students like Jessica show that this rebellious approach to MLP is teachable, replicable, and realistic.[6]

Our MLP Hawai'i is part of a national MLP movement, under the leadership of the National Center for Medical-Legal Partnership (NCMLP), that has gained momentum and attention over the last two decades as an innovative collaboration between doctors and lawyers to improve patient health and well-being.[7] With an emphasis on addressing the social determinants of health,[8] MLP practitioners engage in

---

3 GERALD P. LÓPEZ, REBELLIOUS LAWYERING: ONE CHICANO'S VISION OF PROGRESSIVE LAW PRACTICE 37 (1992); *See* discussion *infra* Part IV.

4 *Id.*

5 *See* LÓPEZ *supra* note 3, at 26 ("In Catharine's attempts to reach out and build connections to others, she has encountered resistance and disbelief in both professional and lay circles, most of which is expressed as 'lawyers don't do that.'") (Lopez also describes lawyers' tendency to "peremptorily dismiss[ ] different images of practice, labeling them variously flawed, utopian, or somehow not really lawyering at all.").

6 The opening statement admittedly holds some paternalistic elements, but it is a realistic reflection of successfully moving a law student from their "regnant" training to embracing a more "rebellious," community-oriented stance.

7 *See* Carey Goldberg, *Boston Medical Center Turns to Lawyers for a Cure*, N.Y. TIMES, May 16, 2001, http://www.nytimes.com/2001/05/16/us/boston-medical-center-turns-to-lawyers-for-a-cure.html; Tina Rosenberg, *When Poverty Makes You Sick, a Lawyer Can Be the Cure*, N.Y. TIMES, July 17, 2014, https://opinionator.blogs.nytimes.com/2014/07/17/when-poverty-makes-you-sick-a-lawyer-can-be-the-cure/; *Why Doctors Are Prescribing Legal Aid for Patients in Need* (PBS broadcast Sept. 2, 2015).

8 See Michael Marmot, *Social Determinants of Health Inequalities*, 365 THE LANCET 1099, 1099 - 104 (Mar. 19, 2005) for a discussion on the social determinants of health; *See*

"upstream" practice,[9] focusing on the early identification and intervention of "health-harming legal needs" that disproportionately affect poor people.[10] It is considered upstream in health because it asks doctors to look beyond medical solutions an d consider the social and legal problems underlying patients' well-being. It is upstream in law because it seeks "to change the way legal services are typically delivered, away from crisis-generated litigation toward *preventive law*."[11] MLP proponents adhere to doing more than direct legal services by including policy and systemic advocacy work. This allows "[medical] providers and lawyers . . . [to] move yet farther 'upstream' to address care and benefits systems that improve health even more effectively."[12] The MLP approach is also hailed as an "access to justice" solution for moving away from crisis intervention and focusing on "preventive legal care."[13]

While integrating health and legal services and collaboration on policy are innovative and significant steps, the current MLP model falls short in meaningfully addressing the *systems* of poverty and racism that undergird and maintain structures of inequality and poor health.[14] The NCMLP, which is dedicated to "combating health-harming social conditions" and promoting "research and replication of MLP [programs]," does not include specific demographic data around race and poverty in their national surveys of MLP sites.[15] Yet the MLP population of low-

---

generally WORLD HEALTH ORGANIZATION, http://www.who.int/social_determinants/sdh_definition /en/ (Last visited Oct. 28, 2019).

9 The public health field has long promoted moving "upstream" by looking beyond the medical model to examine the "social, economic, and political forces causing ill-health." *See* THE NAT'L ASS'N OF COUNTY & CITY HEALTH OFFICIALS & THE INGHAM COUNTY HEALTH DEPT., TACKLING HEALTH INEQUALITIES THROUGH PUBLIC HEALTH PRACTICE: A HANDBOOK FOR ACTION 192 (Richard Hofrichter ed., 2006).

10 The National Center for Medical Legal Partnership [hereinafter *NCMLP*], http://medical-legalpartnership.org/; *See also* NATIONAL CENTER FOR MEDICAL-LEGAL PARTNERSHIP, THE REALITY, THE RESPONSE, THE FIELD, IMPACT (June 2016), https://www.camdenhealth.org/wp-content/uploads/2016/12/2016-NCMLP-one-pager-electronic-June-2016.pdf ("Our mission is to improve the health and well-being of people and communities by leading health, public health, and legal sectors in an integrated, upstream approach to combating health-harming social conditions.").

11 David I. Schulman et al., *Public Health Legal Services: A New Vision*, 15 GEO. J. ON POVERTY L. & POL'Y 729, 759 (2008).

12 *Id.* at 779.

13 *See* Schulman, *supra* note 11, at 743-748.

14 *See* Camara Phyllis Jones, *Confronting Institutionalized Racism*, PHYLON 7, 7 (2003) ("[I]t is only by naming racism, asking the question "How is racism operating here?" and then mobilizing with others to actually confront the system and dismantle it that we can have any significant or lasting impacts on the pervasive 'racial' health disparities that have plagued this country for centuries."); *See also* discussion *infra* Part III.B.

15 *See* NATIONAL CENTER FOR MEDICAL-LEGAL PARTNERSHIP, *supra* note 11; *See also* discussion *infra* Part II. A.

income patient-clients unquestionably significantly overlaps with disenfranchised and disempowered communities of color in the United States.[16] To ignore this context and the lived realities of MLP client communities risks missing a great opportunity to fully realize the collective power of the MLP network of doctors, lawyers, *and* the communities they serve. And more problematically, our efforts to "combat health-harming social conditions" may actually serve to uphold and legitimize the structures that maintain institutional racism.[17]

This note argues that the critical element missing from the MLP approach is an examination of race and racism as a key structural system in the U.S. that impacts nearly every aspect of our work to improve health and wellness. Public health researcher and scholar Camara Jones states, "Institutionalized racism manifests itself both in material conditions and in access to power."[18] As witnessed in our poverty law practice, "access to power . . . include[s] differential access to information (including one's own history), resources (including wealth and organizational infrastructure), and voice (including voting rights, representation in government, and control of the media)."[19] Jones also offers that racism "undermines realization of the full potential of our whole society because of the waste of human resources."[20] Recognizing the capacity of clients and meaningfully integrating community power as core principles of the MLP approach could significantly enhance the collective impact of the national MLP network and the communities we serve. Working together—a network of MLP professionals alongside community members in 46 U.S. states—this influential group is poised to have tremendous impact on structural systems that currently undermine the potential of the over 75,000 clients we currently serve. Combatting racism as a pervasive and persistent structural system should be at the core of the MLP "upstream" approach.

This note centers a racial justice vision and community lawyering practice that is currently missing from the mainstream MLP literature and endorsed practice model. Part II critiques the absence of race data and a racial consciousness in NCMLP despite the significant roles of race and racism as key social determinants of health. Part III addresses both the peril and the promise of the MLP practice of this large and diverse MLP national network. In particular, this note addresses what's at stake if we fail to operate within the "messy social realities" of our community and promote community power in a racial justice context. Part IV shares

---

16 *Id.*

17 *See* discussion *infra* Part III.

18 *See* Jones, *supra* note 14, at 10.

19 *Id.* at 10.

20 *Id.* at 10; *see also* discussion *infra* Part III. B.

stories from our MLP Hawai'i program to illustrate how we work to uncover and combat racial discrimination and, ultimately, to promote community power. Without a vision to promote community agency and leadership while working to dismantle institutional racism, the MLP model severely limits its potential to make lasting, meaningful social change.

II. BURYING RACE IN THE MLP NATIONAL NETWORK

Race is one of the most pervasive, critical factors affecting all aspects of health, social, and legal services. Numerous health publications and government reports reveal that perceptions of race, interpersonal and institutional racism, and unconscious racism are more significant than genetic or phenotype differences.[21] [22] Public health researcher David Williams, for example, pioneered and established the evidence base that reveals racism as a "fundamental cause" of racial health disparities in the United States—even when controlled for socio-economic status and other factors.[23] More recently, health law scholar Dayna Bowen Matthew published a groundbreaking book titled, *Just Medicine: A Cure for Racial Inequality in American Health Care*, promoting civil rights law reforms to "cure" implicit bias among healthcare providers.[24] These mostly unconscious racial biases, she argues, account for much of the "unjust and avoidable" racial health disparities that lead to nearly 84,000 needless deaths of black and brown people.[25] Researchers Michelle van Ryn and

---

[21] *See generally* INSTITUTE OF MEDICINE, UNEQUAL TREATMENT: CONFRONTING RACIAL AND ETHNIC DISPARITIES IN HEALTH CARE (Brian D. Smedley et al. eds., 2003), https://www.nap.edu/read/10260/chapter/1; *See generally* Sidney D. Watson, *Lessons from Ferguson and Beyond: Bias, Health, and Justice*, 18 Minnesota J.L. Sci. & Tech. 111 (2017) for an analysis of the potential of the Affordable Care Act to address racial and other health disparities, https://scholarship.law.umn.edu/cgi/viewcontent.cgi?article=1418&context=mjlst; *See generally* DAVID BARTON SMITH, HEALTH CARE DIVIDED: RACE AND HEALING A NATION (1999); *See generally* DAYNA BOWEN MATTHEW, JUST MEDICINE: A CURE FOR RACIAL INEQUALITY IN AMERICAN HEALTH CARE (2016).

[22] Jones *supra* note 14, at 9. In a notable example of this increasing field of research, Dr. Camara Jones included nineteen citations following the sentence, "A growing number of scientists hypothesize that racism is a fundamental cause of 'racial' and ethnic disparities in health outcomes."

[23] *See generally* David R. Williams & Toni D. Rucker, *Understanding and Addressing Racial Disparities in Health Care*, 21 HEALTH CARE FINANCING REV. 75, 75-90 (2000); *See* David R. Williams et al., *The Concept of Race and Health Status in America*, 109 PUBLIC HEALTH REP. 26, 26-38 (1994); *See also* Matthew *supra* note 21, at 138 ("My belief is that all racism—and specifically *unconscious* racism—is a fundamental cause of health disparities.").

[24] *See generally* Matthew *supra* note 21.

[25] *See* Matthew *supra* note 21, at 30 and 1.

Steven Fu address this in a broader social services context in an aptly titled article, "Paved with Good Intentions: Do Public Health and Human Service Providers Contribute to Racial/Ethnic Disparities in Health?"[26] And in the context of legal services for the poor, racial justice critiques have appeared since the inception of "legal aid."[27]

Armed with this knowledge, institutions and communities are responding. For example, Legal Services of Northern California implemented an ambitious Racial Equity Program in 2003 to engage in a race-conscious practice from intake and legal advocacy to community collaboration and policy work.[28] And despite the significant—even devastating[29]—backlash they incur, community organizing programs have often yielded more powerful results in dismantling institutionalized racism and poverty than do direct service agencies.[30] In healthcare, the most significant U.S. healthcare reform in decades, the Patient Protection and Affordable Care Act,[31] instituted tools to address racism and bias in healthcare.[32]

The MLP model involves each of these systems of health, social services, and law, and intersects the domains of race, poverty, and gender. While this article focuses on race, it is important to acknowledge that none

---

[26] Michelle van Ryn and Steven S. Fu, *Paved with Good Intentions: Do Public Health and Human Service Providers Contribute to Racial/Ethnic Disparities in Health?*, 93 AM. J. OF PUB. HEALTH 248-255 (Feb. 2003).

[27] *See generally* Gary Bellow, *Turning Solutions Into Problems: the Legal Aid Experience,* 34 NLADA BRIEFCASE (Aug. 1977); *see generally* Paul E. Lee & Mary M. Lee, *Reflections from the Bottom of the Well: Racial Bias in the Provision of Legal Services to the Poor*, 27 CLEARINGHOUSE REV. 311 (1993); *see generally* William P. Quigley, *The Demise of Law Reform and the Triumph of Legal Aid: Congress and the Legal Services Corporation From the 1960's to the 1990's*, 17 ST. LOUIS U. PUB. L. REV. 241 (1998).

[28] Mona Tawatao et al., *A Race-Conscious Program in Legal Aid: One Program's Effort*, CLEARINGHOUSE REV. J. OF POVERTY L. AND POL'Y 48, 49 (May-June 2008) ("Legal Services of Northern California . . . concluded that we, as a program, could no longer continue a poverty law practice that did not consciously confront these [racial and ethnic] disparities.").

[29] *See* Charles Connerly, 36 J. OF PLANNING EDUCATION AND RESEARCH 490-492 (2010) (reviewing JOHN ATLAS, SEEDS OF CHANGE: THE STORY OF ACORN, AMERICA'S MOST CONTROVERSIAL ANTIPOVERTY COMMUNITY ORGANIZING GROUP (2010)) ("[I]t is clear from this book that successful efforts to organize low-income communities will be met by strong opposition from conservatives who will exploit every weakness that community organizations, including ACORN, might have.").

[30] *See generally* William Quigley, *Reflections of Community Organizers: Lawyering for Empowerment of Community Organizations*, 21 OHIO N. U. L. REV. 455 (1995). Also consider the work of the Congress of Racial Equality (CORE), United Farm Workers, National Welfare Rights Organization, as well as current programs like Michigan Welfare Rights Organization (*https://www.mwro.org/*).

[31] Patient Protection and Affordable Care Act, 42 U.S.C. § 18001 (2010).

[32] Watson, *supra* note 21.

of these domains stands alone.[33] In our work, individual, poverty-driven, client issues are rarely untouched by race, gender, class, or location.[34] As the NCMLP stakes a claim in building a health justice model, merely "treating" these essential domains and burying race as just one of many social determinants of health within the MLP framework severely limits larger justice efforts. Pushing racial justice to the fore is critical to moving MLP further upstream. We need to link health and law *with justice* to transform the controlling institutions that determine the circumstances and outcomes for poor people and people of color in America. To begin, I examine the missing demographic data about who we serve and who serves, which provides the context and starting point for further inquiry. I end this section with a brief survey of attitudes about community lawyering and community building in the MLP literature.

A. Who We Serve and Who Serves

How we define and describe who we serve is meaningful. What we measure and how we evaluate our outcomes speak to the underlying goals and values that drive our practice. The National Center for MLP seeks "to improve the health and well-being of people and communities by leading health, public health, and legal sectors in an integrated, upstream approach to combating health-harming social conditions."[35] NCMLP frequently promotes a "health justice" approach to its work, promoting "health and justice in all practices and in all policies."[36] Yet, rather than tackling institutional racism and its related power differentials, they define "the root of so much illness among people who are poor [as] unequal access to good education, employment, housing and food."[37] Indeed, unequal access is a crucial aspect of racial justice. But ending a health justice approach at the promise of "access" without also prioritizing racial justice and civic engagement risks maintaining structural inequalities and community powerlessness.

---

[33] *See generally* CRITICAL RACE THEORY: THE KEY WRITINGS THAT FORMED THE MOVEMENT (Kimberlé Crenshaw et al. eds., 1995).

[34] John Calmore, *A Call to Context: The Professional Challenges of Cause Lawyering at the Intersection of Race, Space, and Poverty*, 67 FORDHAM L. REV. 1927, 1940 (1999) ("A key aspect of cause lawyering is understanding that individual clients cannot be treated as separate from their racial, geographical, and class identities.").

[35] *See* NCMLP *supra* note 10; *See generally* POVERTY, HEALTH AND LAW: READINGS AND CASES FOR MEDICAL-LEGAL PARTNERSHIP (Elizabeth Tobin Tyler, et al. eds, 2011).

[36] Ellen Lawton & Jack Geiger, *The Shared DNA of Health and Justice*, HUFFINGTON POST, Aug. 25, 2015, http://www.huffingtonpost.com/ellen-lawton/the-shared-dna-of-health-and-justice_b_8034788.html.

[37] *Id.*

There are many variations in practice among the over 300 MLP national sites, but most adhere to the following three core components:

1. Providing direct legal advocacy on-site in a healthcare setting;
2. Transforming clinical practice through training and collaboration between doctors and lawyers to "'treat' legal needs that impact health"[38]; and
3. Addressing systemic advocacy and policy issues that arise from the collaboration.

Since our inception in 2009, the MLP Hawai'i program has adhered to these three core activities, often framing our work as an intervention that addresses the social determinants of health.[39] Our small staff has been mostly people of color serving a primarily immigrant population. About 70% of our clients are recent migrants from Chuuk State of the Federated States of Micronesia. Micronesian migrants to Hawai'i, especially the Chuukese population, face both extreme economic hardship and troubling discrimination.[40] Over time, acknowledging how race and racism affect all aspects of our work, MLP Hawai'i purposefully adopted a race conscious lens that takes into account how racism affects our clients' lives and also our relationship with our client communities. Today, we describe our work as rebellious lawyering or community lawyering—an approach that facilitates our ability to recognize and address how racism is embedded in the fabric of our society and our work.[41]

1. Who We Serve and Who Serves: According to NCMLP

A focus on racial justice requires an examination of who is served by the more than 300 MLP sites across 46 states and the District of Columbia. Yet, the NCMLP has never collected data about the race or ethnicity of the populations served by MLP sites. Since the NCMLP first began collecting comprehensive data from the affiliated MLP programs, it has focused on institutional structures, budget/funding, and legal issues

---

[38] Ellen Lawton, et al., *Medical-Legal Partnership: A New Standard of Care for Vulnerable Populations, in* POVERTY, HEALTH AND LAW: READINGS AND CASES FOR MEDICAL-LEGAL PARTNERSHIP 71, 75 (Elizabeth Tobin Tyler, et al. eds, 2011).

[39] In 2015, MLP Hawai'i was featured in the NCMLP Brief, "Medical-Legal Partnership and Health Centers: Addressing Patients' Health-Harming Civil Legal Needs as Part of Primary Care."

[40] *See* discussion *infra* Part IV. A. and note 121.

[41] *See* Lopez *supra* note 4, at 37 (Ours is imperfect and challenging work, and we are not immune to the struggle, internally and externally, to challenge, refine, and redefine our own approaches and practices. But we remain committed to being "open . . . to being educated by all those with whom [we] come in contact, particularly about the traditions and experiences of life on the bottom and at the margins.").

addressed. While tremendously helpful for developing structures and tabulating the collective impact on narrow legal and traditional policy matters, crucial demographic racial and ethnic data about communities and providers is ignored.

The last NCMLP survey report titled, "The State of the Medical-Legal Partnership Field: Findings from the 2016 National Center for Medical-Legal Partnership Surveys" includes specific data about "People served by MLPs." The survey results include the following broad categories:

- Children
- General Population
- Homeless
- High-Utilizers
- Immigrants
- Elderly
- Veterans
- Native Americans[42]

Despite the exclusion of race and ethnicity by NCMLP, individual sites do collect this data. For example, published studies from the Tucson Family Advocacy Program in Arizona,[43] the Medical-Legal Partnership of Southern Illinois, a rural MLP site,[44] and the Peninsula Family Advocacy Program in Northern California[45] include demographic data about race/ethnicity as part of their observational studies. Data about race and income is likely common among health and legal providers doing MLP work, so this data could be easily included.

While the NCMLP gives us few clues about racial or ethnic demographics of clients and providers, statistics from the Legal Services Corporation (LSC) and the U.S. Health Resources & Services

---

[42] MARSHA REGENSTEIN ET AL., THE NATIONAL CENTER FOR MEDICAL-LEGAL PARTNERSHIP, THE STATE OF THE MEDICAL-LEGAL PARTNERSHIP FIELD: FINDINGS FROM THE 2016 NATIONAL CENTER FOR MEDICAL-LEGAL PARTNERSHIP SURVEYS 11, 13 (Aug. 2017) (explaining that the survey form for both legal and health providers included the following categories: "Children, Elderly, High Utilizers, Homeless/Unstably, Housed People, Immigrants, Veterans, Native Americans"), http://medical-legalpartnership.org/2016-mlp-survey-report/.

[43] Anne M. Ryan et al., *Pilot Study of Impact of Medical-Legal Partnership Services on Patients' Perceived Stress and Wellbeing*, 23 J. OF HEALTH CARE FOR THE POOR AND UNDERSERVED 1536-46 (Nov. 2012).

[44] James A. Teufel et al., *Rural Medical-Legal Partnership and Advocacy: A Three-Year Follow-up Study*, 23 J. OF HEALTH CARE FOR THE POOR AND UNDERSERVED 705-14 (May 2012).

[45] Dana Weintraub et al., *Pilot Study of Medical-Legal Partnership to Address Social and Legal Needs of Patients*, 21 J. OF HEALTH CARE FOR THE POOR AND UNDERSERVED 157-68 (May 2010).

Administration (HRSA) are instructive. The LSC is the federal agency that funds and oversees most legal aid programs in the United States and affiliated territories.[46] The HRSA is the federal agency that designates and funds most U.S. community health centers, many of which provide MLP services.[47] LSC and HRSA funded programs comprise a significant percent of all MLP legal and health service providers, respectively. According to the 2016 "The State of the Medical-Legal Partnership Field" report, "Three-quarters of legal respondents are civil legal aid organizations, split between LSC-funded (40 percent) and non-LSC-funded (31 percent) entities."[48] The report also states that "one-third of health care organizations that are home to MLPs are federally-qualified health centers (FQHCs)."[49] LSC and HRSA collect detailed demographic data about clients and patients (and staff for LSC), providing the racial landscape for discussions of racial justice within our service agencies.

2. Who We Serve and Who Serves: Racial Realities From LSC and HRSA

2018 LSC statistics are available in a report titled, "LSC By the Numbers: The Data Underlying Legal Aid Programs (2018)."[50] This report provides data from 132 legal aid grantees serving at 855 offices throughout the U.S. and its territories and affiliated jurisdictions. With legal aid programs (LSC-funded and non-LSC-funded) serving a majority of MLP clients nationally, their demographic data is instructive.

LSC reports that from a total of 743,021 clients, 39% of legal aid clients are White, 28.3% are Black, 17.9% are Hispanic, 3.1% are Asian/Pacific Islander, 2.5% are Native American, and 8.2% are identified

---

[46] See generally https://www.lsc.gov/ for more information on the Legal Services Corporation; See generally Legal Services Corporation Act, 42 U.S.C. § 2996 et seq. (2017).

[47] *See generally* Health Resources & Services Administration [hereinafter HRSA], https://www.hrsa.gov/.

[48] Regenstein, *supra* note 41, at 10; *See also*, NCMLP at http://medical-legalpartnership.org/partnerships/ (last visited Oct. 30, 2019) describing the "vast majority " of legal partners as comprising 146 legal aid agencies and 52 law school programs.

[49] *Id.*, at 9 (The report states, " . . . these organizations represent an area of recent growth for the formation of MLPs. Two in three FQHCs with an MLP have established the partnership within the last five years.").

[50] Layton L. Lim, et al., LSC BY THE NUMBERS: THE DATA UNDERLYING LEGAL AID PROGRAMS (2018), LEGAL SERV. CORP (MLP sites are also run by non-LSC funded legal aid programs, and other legal service providers who will not be captured in this data. Still, it is an appropriate and realistic snapshot of legal services in America.).

as "other."[51] A large majority of clients, 71.6%, are women, and 78.3% are between 18 and 59 years of age.[52] Only 5.5% are veterans.

In its broadest strokes, LSC grantee staff seems quite diverse and somewhat representative of US Census data. From a total of 10,009 reported staff, LSC aggregated data shows them to be 57.3% White, 14.2% Black, 20% Hispanic, 5% Asian/Pacific Islander, 1.3% Native American, and 2.2% other.[53] Overall, 76.1% of LSC grantee staff are women. Yet when these numbers are analyzed by agency roles, the picture looks quite different.[54] Just over 75% of the 133 LSC grantee Executive Directors and 73% of the 105 Deputy Directors are White. Only 12% of all Executive Directors are Black, 9% are Hispanic, and only three LSC Executive Directors identified as being Native American (2.3%), and two as Asian/Pacific Islander (1.5%). Considering all "director" positions (Executive Director, Deputy Director, Development Director, and Director of Litigation) together, over 77% of all directors are White, and only 9.4% of director positions are held by Blacks, and 8% held by Hispanics. Almost 46% of Executive Directors are women, but they comprise nearly 70% of Deputy Directors.

Similarly, Whites hold a majority of LSC attorney positions. A little over 68% of LSC Staff Attorneys are White, 11.1% are Black, and 10.7% are Hispanic, and 6.1% are Asian/Pacific Islander. Less than 1% of Staff Attorneys are Native American. Comparable diversity shows up among the 684 LSC Managing Attorneys and the 620 LSC Supervising Attorneys. Taken together, Whites comprise nearly 70% of all attorneys in supervising positions, and Blacks and Hispanics are each about 11% of supervisors. In these positions, women are the majority, representing about 69% of all staff and supervising attorneys.

In contrast, women and people of color are vastly overrepresented in the Secretarial and Clerical positions. Of the 1,173 positions, less than 2% (22 positions) of these lower-level, lower-wage jobs are held by White men. In total, 38.7% are held by White men and women, 18.1% by Blacks, 36.2% by Hispanics, and 2.8% each held by Native Americans and Asian/Pacific Islanders. Similar demographics hold for Administrative Assistants. Significantly, over 95% of all secretarial, clerical, and administrative assistant positions are held by women. Federally-funded community health centers (CHC) also provide helpful data through their

---

51 *Id.*, at 70.

52 *Id.*, at 70.

53 *Id.*, at 83; See United States Census Bureau, https://www.census.gov/quickfacts/fact/table/US/PST045218 for U.S. Census data from July 2018.

54 The remainder of this section uses data from Legal Serv. Corp. *supra* note 50, at 144-145.

annual, mandatory Uniform Data System reporting.[55] The "2018 Health Center Data Snapshot" provided by HRSA reports on 1,362 CHC grantees and 84 "look-alike" programs,[56] comprising 29.3 million patients in the United States and its affiliated territories. Data show that community health center patients resemble LSC clients concerning race and poverty.[57] With nearly half of all MLP programs partnered with CHC sites and with Legal Aid programs, we might generalize that MLP's serve mostly non-white, high-poverty patient-clients.

Collecting data about who we serve is a critical step towards identifying a race consciousness and developing meaningful racial justice visions and approaches. Knowing who serves is also imperative to developing race conscious approaches, especially considering what is known about implicit bias in the provider to patient/client relationship.[58] The MLP network should disrupt the traditional top-down client approach and employ new methods to work in support of community-envisioned and community-led justice efforts. As will be discussed next, rebellious lawyering—with principles of sharing power and promoting democratic engagement—is a key approach for seeking meaningful justice and challenging the systems that undergird our unequal structures.

---

55 *See generally* HRSA, http://bphc.hrsa.gov/datareporting/index.html.

56 *See* HRSA, https://www.hrsa.gov/opa/eligibility-and-registration/health-centers/fqhc-look-alikes/index.html ("Federally Qualified Health Center Look-Alikes are community-based health care providers that meet the requirements of the HRSA Health Center Program, but do not receive Health Center Program funding"); See also The Social Security Act, 42 U.S.C. ch. 7, § 1905(l)(2)(B) for the defining legislation for Federally Qualified Health Center Look-Alikes (under the Consolidated Health Center Program).

57 *See* HRSA, https://bphc.hrsa.gov/uds/datasnapshot.aspx?year=2018 (According to 2018 HRS data, about 41% of all CHC patients identified as non-Hispanic White, 22% are Black, 36% Hispanic/Latino, and 4.2% are Asian. Among the smaller category of similar health centers, the "look-alikes," only 34% of clients identify as non-Hispanic White. Both categories of CHCs, report about 70% of all patients living at or below federal poverty level, and 91% below 200% of federal poverty. LSC programs generally serve clients whose households are at or below 125% of federal poverty.).

58 Even if race does not appear to be a factor, for example if white staff serve mostly white clients, racial justice principles still apply and must be examined. I have had difficult and enlightening conversations with MLP lawyers of color (like myself) who are frequently confronted with both the commonalities we may share with our clients, and, more often, by our privileges. Recognizing how these factors impact our thoughts and actions is important to our effectiveness as lawyers, advocates, partners, and community members; *See* discussion *infra* Part III. B.

B. MLP and Community Building

The notion of rebellious lawyering or community lawyering is rarely discussed in the MLP endorsed literature.[59] And when it is addressed, at best, it is treated as just one of many kinds of lawyering.[60] NCMLP leadership published an article, *Public Health Legal Services: A New Vision*, that positioned "community lawyering" alongside impact litigation, law reform efforts, and nebulous "empowerment" and "community building" concepts as separate from the work of direct legal services. A revealing footnote in this article states, "The community building work is also necessarily more illusory and speculative, and its successes or failures harder to measure and define."[61] The authors then justify prioritizing a better MLP "triage" model of direct legal services by saying, "In a world dominated by scarcity and competing demands for available resources, it is difficult at the street level to allocate many of those resources to such seemingly risky campaigns."[62]

If rebellious lawyering and community building work is "illusory and speculative" and a "risky campaign," then yes, a better triage model of traditional legal services seems the rational choice. And this perspective means that the principles of community lawyering—especially promoting community agency and power—will never be treated as a *necessary condition* for justice. This is what is at stake when we fail to develop justice goals in general and a racial justice vision and practice in particular. As a national MLP movement, not only do we fall short of the stated health justice goals, but we risk upholding and perpetuating the very systems that subordinate the communities we purport to help.

---

[59] *See* Tishra Beeson, et al, *Making the Case for Medical-Legal Partnerships: A Review of the Evidence* (Feb. 2013); *See also*, *Medical-Legal Partnership Literature Matrix* 2 (Feb. 2013) (This white paper "summarizes the salient literature on medical-legal partnership" in order to "present the need for legal and health services integration, describe the essential components of the MLP model as well as the process for delivering integrated services, and finally, explore the state of preliminary evidence of MLP impact on patients, providers, and communities at large.").

[60] *See, e.g.*, David I. Schulman et al., *Public Health Legal Services: A New Vision*, 15 GEO. J. ON POVERTY L. & POL'Y 729, 743-747 (2008) (The brief discussion of rebellious lawyering falls under the header, "Access to Justice or Political Empowerment," signalling that these concepts are at odds with each other. Here, rebellious lawyering is positioned on one side of the tension between direct legal services (under an "access to justice" model) and impact litigation/law reform (under a "political empowerment" model). The authors conclude that the MLP model offers a better way to triage cases, especially considering the long history of conservative political threats to legal aid funding. Thus, MLP is a better mousetrap under imperfect circumstances, rather than as an opportunity to re-envision the role of collaborative legal services for meaningful social change and new institutional relationships.).

[61] *Id.*, at note 70.

[62] *Id.*, at note 70.

Two MLP practitioners and authors, Emily Benfer and Amy Killelea, are rare among the MLP network for articles that highlight racial justice concepts and rebellious lawyering practice, respectively. Emily Benfer considers matters of race and racism within a health justice approach to MLP in an article titled *Health Justice: A Framework (and Call to Action) for the Elimination of Health Inequality and Social Injustice*.[63] Benfer addresses matters of "institutional discrimination and segregation" and "implicit bias," providing a potential framework to build a racial justice approach within the MLP endorsed literature. She suggests steps to "achieving health justice" that include actions, as her section headers indicate, to "End Implicit and Overt Bias, Discriminatory Practices, and Their Effects" and "Empower Communities and Individuals."[64] Although neither explicitly prioritizing a racial justice vision nor endorsing a community lawyering practice, Benfer's significant health justice framework should be centralized and developed to that end.

An outlier among MLP practice articles is Amy Killelea's 2009 piece, *Collaborative Lawyering Meets Collaborative Doctoring: How a Multidisciplinary Partnership for HIV/AIDS Services Can Improve Outcomes for the Marginalized Sick*.[65] Killelea explores various practice models of legal services for people with HIV/AIDS, always prioritizing the voices and autonomy of the clients themselves. In a section titled, "A Holistic Approach to Care Will Have a Normative Impact on Trust, Dignity, and Community Empowerment," she focuses on rebellious lawyering practice within an MLP model that holds individual and community agency as an underlying condition for both patient health (compliance) and meaningful policy and structural change.[66] Killelea's piece is notable for its centralization of client and community control over their own lives. She views a truly collaborative, community based MLP as a site that "serves to amplify the voice of the marginalized." "Most

---

[63] Emily Benfer, *Health Justice: A Framework (and Call to Action) for the Elimination of Health Inequality and Social Injustice*, 65 AM. U. L. REV 275 (2015-2016).

[64] These sections are not primarily about community organizing or community empowerment, but rather focus on government and policy-driven initiatives to address social determinants of health issues.

[65] Amy Killelea, *Collaborative Lawyering Meets Collaborative Doctoring: How a Multidisciplinary Partnership for HIV/AIDS Services Can Improve Outcomes for the Marginalized Sick*, 16 GEO. J. ON POVERTY L. & POL'Y 413 (2009).

[66] *See id.*, at 432 ("The normative impact of such a model will be particularly far-reaching if more attention is paid, not just to facilitating access to a broader range of services, but to *how* those services are provided [emphasis in original] . . . I contend that a collaborative approach to legal work that involves listening to and acting on various pieces of problem-solving knowledge, including the often untapped resource of personal knowledge and acumen of the client, will have a cross-pollinating effect on the medical arm of any medical-legal partnership.") (citing Lopez *supra* note 3).

importantly," Killelea emphasizes, "such centers provide a locus for community action and empowerment."[67]

These justice-focused articles are exceptional among the literature deemed "salient"[68] by the National Center for Medical-Legal Partnership for their focus on how to achieve broader racial and community justice goals. (In fact, Killelea's article was not included in the NCMLP survey of reviewed and presumably endorsed MLP literature.) What follows is a discussion about what is at stake if we fail to build on these works and develop a clear racial justice vision as a national network of MLPs. As health justice practitioners, administrators, and advocates, we are not merely neutral actors in the greater struggle for structural change. Health justice calls on us to explore the ways we might even be barriers to meaningful justice and autonomy for poor and vulnerable communities we purport to serve.

III. THE VALUE OF CENTERING RACE

> "When we speak of 'access to justice' do we mean that our laws and institutions are just; that all we need do is insure that each individual can walk through the doors of our courts and legislatures to find that justice? Do we believe that the world our laws and institutions rationalize, support, and justify is a just world?"[69]
>
> - Charles R. Lawrence III, Keynote, Access to Justice (Honolulu, Hawai'i)

Without a vision for racial justice linked to structural change, our MLP services are just that—*services* for the poor.[70] We risk creating

---

67 *See id.*, at 459.

68 *See* discussion *supra* note 59. *See also* Viviana Bonilla López, *Beyond Medical Legal Partnerships: Addressing Recovery-Harming Social Conditions Through Clubhouse-Legal Partnerships*, 43 N.Y.U. REV. L. & SOC. CHANGE 429 (2019) (This recently published article proposes adapting the MLP model to work with "non-medical, recovery-centered community centers called clubhouses" in order to best "serve people with mental illnesses in an autonomy-respecting way that builds power for them and their communities.").

69 Charles R. Lawrence III, *Sustaining the Struggle for Justice: Remembering and Renewing Abolitionist Advocacy*, Keynote Address before the Access to Justice Conference (June 21, 2013) (transcript on file with author).

70 *See* John McKnight, *Services Are Bad for People: You're Either a Citizen or a Client*, *ORGANIZING* 41, 41-44 (Spring/Summer 1991).

perpetual "clients" instead of promoting actively engaged "citizens."[71] We risk perpetuating learned helplessness[72] instead of supporting the power of communities.[73] The policy mandate of the MLP model holds great potential to move beyond traditional "services," but a justice vision must underlie that mandate if we are to make meaningful structural change. If the MLP national movement fails to centralize race and challenge systemic racism and its related structures of poverty and unequal power, we risk, at best, limiting our potential for lasting, meaningful social change. And at worst, we risk maintaining and legitimizing persistent systems of inequality.

This section addresses the value of centering race and the promise that this approach holds for a national MLP practice. First, I draw on the "Critical Race Praxis" analysis of legal scholar Eric Yamamoto, who cautions about the narrow reliance on legal outcomes and processes. He offers a more robust approach to racial justice that includes interdisciplinary collaboration and integrating the "messy social realities" of those most affected. I next turn to public health scholar Camara Jones and her research and scholarship on race and racism. Her powerful definition of racism and her compelling analysis of structural racism provide the practical framework for a critical praxis that addresses power and recognizes the "human resources" that each individual brings to our collective community. At the risk of oversimplification, their work provides the critical analysis that is manifested in the KKV health center motto of "neighbors being neighborly to neighbors."

A. The Peril of the "Dissociation Between Law and Justice"

Over twenty years ago, Eric Yamamoto wrote about "an intensifying dissociation of law (as it conceives of justice) from racial justice (as it is experienced by racialized groups)."[74] Focusing on post-

---

[71] *See id.*, at 41 ("Service systems require clients and community organizations require citizens. That is why service systems are often antithetical to powerful communities.").

[72] *See* Bellow, *supra* note 27 ("Clients can be literally 'taught' that their situations are natural, inevitable, or their own fault, and that dependence on professional advice and guidance is their only appropriate course of action; that is, legal assistance for the poor can become a bulwark of existing social arrangements."); *See also* Lopez *supra* note 3 ("from the moment they walked in the door—[clients] have a pretty well-formed notion of" the role of a lawyer.).

[73] *See* McKnight, *supra* note 70, at 44 ("An effective community is one where people are committed to each other and solve problems together. An effective community is moving away from being filled with clients. A powerful community . . . can harness the power of citizens through the vehicle of community organization.").

[74] Eric Yamamoto, *Critical Race Praxis: Race Theory and Political Lawyering Practice in Post-Civil Rights America*, 95 MICH. L. REV. 821, 828 (1997) [hereinafter Yamamoto, *Critical Race Praxis*].

civil rights antidiscrimination law, Yamamoto described how the narrow reliance on legal outcomes and processes may serve to stem *overt* racism, but do little to change the daily experiences and engagement of the people most affected by those legal outcomes. For example, the Voting Rights Act of 1965[75] and *Brown v. Board of Education* (1954)[76] signify the bedrock of antidiscrimination law, yet the swift and constant efforts to limit their legal and practical meanings persist in today's threats to voting rights for people of color[77] and continued segregation in the American education system.[78] As court decisions narrow and even "invert" justice goals, the outcomes "clash with the ideals, perceptions, and concrete experiences of many members of racial communities, thereby dissociating law (not completely, but significantly) from racial justice."[79]

Yamamoto's analysis of the post-civil rights antidiscrimination efforts of the 1990s can be applied to the MLP approach today. A core component of MLP is the inclusion of policy and systemic advocacy. But without challenging unequal laws and institutions underlying these policies, and without a requirement of including voices and ideas from the communities most affected by those policies, as legal scholar Charles Lawrence cautions in the opening quote, are we merely rationalizing, supporting, and justifying an unjust world?[80] Yamamoto calls for the development of a critical race praxis that brings together front-line lawyers, practitioners, and community members with academics and critical theorists.[81] Details are beyond the scope of this article, but one important practice consideration is particularly relevant here. Yamamoto states, "Practical justice is located in the messy social realities people see, hear, touch, and sense, and it takes account of how subordinated racial groups experience justice efforts."[82] This is only achieved by looking to the bottom and

---

75 Voting Rights Act of 1965, 42 U.S.C. §§ 1973-1973bb-1 (1065).

76 437 U.S. 483 (1954).

77 Michael Wines, *For Voting Rights Advocates, Court Decision Is 'Temporary Victory,'* NEW YORK TIMES, May 16, 2017, https://www.nytimes.com/2017/05/16/us/for-voting-rights-advocates-court-decision-is-temporary-victory.html.

78 Nikole Hannah-Jones, *Segregation Now*, PROPUBLICA (April 16, 2014, 11:00 P.M.) ("In Tuscaloosa today, nearly one in three black students attends a school that looks as if Brown v. Board of Education never happened."), https://www.propublica.org/article/segregation-now-full-text; Lauren Camera, *More Than 60 Years After Brown v. Board of Education, School Segregation Still Exists*, U.S. News and World Report (May 17, 2016, 1:47 p.m.), https://www.usnews.com/news/articles/2016-05-17/after-brown-v-board-of-education-school-segregation-still-exists.

79 Yamamoto, *supra* note 74, at 846.

80 Lawrence, *supra* note 69.

81 *See* Yamamoto *supra* note 74, at 830; *see also*, discussion *infra* Part IV.

82 Yamamoto, *supra* note 74, at 881.

working alongside our fellow citizens and neighbors.[83] At MLP Hawai'i, it begins as simply as asking clients potentially facing racial biases, "What do you think is really going on?" and "What do you need?" And it continues with a willingness to listen for the race stories, to attend community meetings (without your own agenda), and to offer support for community-led efforts. But ultimately, justice requires a belief that every member of our community is a precious resource full of potential,[84] that we all have an equal stake in the fight,[85] and that everyone has the right and the capacity to lead themselves.

Even acknowledging an equal stake, MLP lawyers should recognize the constant and various forces undermining community power and voice, including our own privileges. This means understanding how the legal tools we use may contribute to subordinating those we seek to help. Yamamoto cautions about law's power of "inscription and reproduction of [disparaging] cultural images" that "combine to legitimate racial oppression."[86] At MLP Hawai'i, we see this daily in the ways our Micronesian migrant clients feel cowed by their racialized depiction in negative media stories[87] and by how they are treated in courtrooms by lawyers and judges.[88] While appreciating the need for access to legal services, many of our clients maintain skepticism about the law's power to help them navigate the daily indignities of social and legal/governmental life.[89] For example, clients have come to our office to

---

83 *See* Yamamoto, *supra* note 74, at 883 (describing the power within actual interactions: "[T]he face-to-face intergroup level, material goods, human interactions, access to political channels, along with discursive strategies, embody power."); *See also* Mari Matsuda, *Looking to the Bottom: Critical Legal Studies and Reparations*, 22 Harv. C.R.-C.L. L. Rev. 323 (1987); Lopez *supra* note 3, at 37.

84 See discussion *infra* p. 14 on Camara Jones' definition of racism.

85 *See* Lopez, *supra* note 4, at 30 (describing "Sophie," a rebellious lawyer who is seen by the community as "someone who's with them, who's got a stake in their fight").

86 Yamamoto, *supra* note 74, at 842, 841.

87 *See supra* note 121; *See also*, UH Law School, *Peace Day Panel*, VIMEO (Sept. 17, 2015), https://vimeo.com/139751892 (presentation by Russell Thouleg and The Fourth Branch, *Micronesian Depiction in Hawai'i Media* at 13:30 to 30:20. This was part of a presentation titled, "We Are All COFA Citizens: Reimaging the Compact Relationship in Hawai'i and the World," co-sponsored by the Matsunaga Institute for Peace & Conflict Resolution and the William S. Richardson School of Law as part of the Peace Day/Constitution Day Celebration).

88 *See* Charles R. Lawrence III, featuring a poem by Kathy Jetnil-Kijiner, *Local Kine Implicit Bias: Unconscious Racism Revisited (Yet Again)*, 37 HAW. L. REV. 457, 459-472 (2015) for a discussion of the racial bias that Micronesians in Hawai'i face in the criminal justice system and society-at-large.

89 *See generally* Lucie E. White, *Subordination, Rhetorical Survival Skills, and Sunday Shoes: Notes on the Hearing of Mrs. G.*, 38 BUFF. L. REV. (1990); *See also* Lucie E. White, *Goldberg v. Kelley on the Paradox of Lawyering for the Poor*, 56 BROOK. L. REV. 861, 872

request legal advice before a meeting with their public housing manager, then immediately reject our offer to accompany them to the meeting, often not trusting that our presence will help.[90] In these ways, Yamamoto argues, the narrow legal "approach to racial justice is sharply constricted and that for many racial minorities this constriction undermines the notion of justice through legal process. It pulls law away from racial justice."[91]

For the MLP movement, focusing on civil legal needs as an "access to justice" solution—where access to justice means access to lawyers/traditional legal services for the poor—fails to address the greater issues of racial justice as experienced by the people we serve. As Lawrence challenges us, "When we speak of 'access to justice' do we mean that our laws and institutions are *just*; that all we need do is insure that each individual can walk through the doors of our courts and legislatures to find that justice?"[92] Yamamoto argues that not only does "access" alone not equal "justice," but this reliance on law may even undermine justice, thereby contributing "in the long run to social and political stagnation and even regression."[93] Ultimately, Yamamoto argues, this masks "the profound need for social structural change."[94] Is our reliance on traditional legal services masking and undermining justice for our client communities? This seems an essential question for the MLP national network as it becomes more institutionalized and embedded in both legal and health services for the poor.

B. The "Wasted Human Resources" of Racism

A critical starting point is to define what we mean by racism. Racism is commonly defined as "[t]he belief that race accounts for differences in human character or ability and that a particular race is superior to others."[95] This dictionary definition suggests an intentional,

---

(1990) ("Even in the rare cases when [lawyer-engineered] remedies do work according to plan, they still do not challenge the lived experience of subordination . . . ").

[90] Fear of retaliation is a constant factor, despite reassurances that "retaliation is illegal." And our clients face many situations where lawyers and legal advocates have not been helpful or necessary in everyday problem-solving. This includes matters as serious as eviction threats to minor matters like requesting a "doctor's note" to appease ones school or employer.

[91] Yamamoto, *supra* note 74, at 852.

[92] Lawrence, *supra* note 69.

[93] Yamamoto, supra note 73, at 835, (citing RICHARD DELGADO & JEAN STEFANCIC, FAILED REVOLUTIONS: SOCIAL REFORM AND THE LIMITS OF LEGAL IMAGINATION XV (1994)).

[94] *Id.*, at 835, (citing RICHARD DELGADO & JEAN STEFANCIC, FAILED REVOLUTIONS: SOCIAL REFORM AND THE LIMITS OF LEGAL IMAGINATION XV (1994)).

[95] AMERICAN HERITAGE DICTIONARY (5th ed. 2016), https://ahdictionary.com/word/search.html?q=racism.

personally-mediated act, such as when one person believes they are superior to another.[96] This narrow definition limits how we understand the racism experienced by our clients and hidden within our practice. A more edifying definition comes from Dr. Camara Jones, a public health scholar and former President of the American Public Health Association. Dr. Jones offers this "global definition of racism":

Racism is a system of structuring opportunity and assigning value based on phenotype ("race") that:

- unfairly disadvantages some individuals and communities
- unfairly advantages other individuals and communities
- undermines realization of the full potential of the whole society through the waste of human resources.[97] [98]

This more nuanced definition facilitates an understanding of racism as an institutional structure ("system") that robs all of us, "our whole society," of those whose opportunities we deny.

Similarly, Charles Lawrence has called racism "a disease that infects us as a community."[99] He also confronts the simplistic view, the "dictionary" definition, of racism as being merely "a collection of acts by individuals who can choose to be racists or not."[100] Rather, Lawrence urges us to consider the role of "conscious and unconscious racism as evidence of the continued vitality of racist ideology."[101] He argues that because it "flourished [in] the Constitution[] and normative justice," racism demands that "we act affirmatively to remedy its effects and disestablish its institutional embodiments."[102] Drawing a particularly relevant health analogy, Lawrence describes his earlier arguments as,

---

[96] *See* Camara Jones, *Levels of Racism: A Theoretical Framework and A Gardener's Tale*, 90 AM. J. OF PUBLIC HEALTH 1212, 1212-13 (Aug. 2000) (discussing institutionalized, personally mediated, and internalized racism as three levels of a framework for understanding racism).

[97] *See* Jones, *supra* note 14, at 9 (discussing racism as a system); *See* Charles R. Lawrence III, *Listening for Stories in All the Right Places: Narrative and Racial Formation Theory*, Law & Society Review 247, 248 (2012) (explaining how it is widely accepted that race, while often based on phenotype, is socially constructed for a political purpose) (citing Michael Omi and Howard Winant, Racial Formation in the U.S. From the 1960s and 1990s, (1994)).

[98] Race-based inequality can manifest in many varieties of power and privilege, even when we may not initially define the dynamics as being obviously "racial." And with powerful links between race and economic class in the United States, low-income communities often experience similar effects of racism as defined by Jones (unfair disadvantages and wasted human resources).

[99] Lawrence, *supra* note 88, at 459.

[100] *Id.*, at 459.

[101] *Id.*, at 458.

[102] *Id.*, at 458.

"Racism was a societal illness, and we needed to respond to racism as epidemiologists rather than as moralists or crime fighters."[103]

Applying this analysis to the social determinants of health, it is insufficient to cling to the traditional arguments that, for example, attribute racial health disparities primarily to the long history of "segregated housing patterns and inferior employment opportunities for minorities in the United States."[104] This true but incomplete argument leads legal service providers to rely on traditional civil rights law solutions without considering the underlying "disease" of structural racism and its impact on the whole community. This narrow view also fails to consider the crucial role of implicit bias,[105] including the role of provider bias.

As an increasingly influential national network, MLP providers should reflect on the ways our privileged roles reinforce the subordination of our clients. We might also re-think our roles as community lawyers to re-imagine how an anti-subordination approach—encompassing anti-racism—challenges an "unjust world" in order to realize "the full potential of the whole society."[106] Similar reflection comes from the medical side, for example, as Dayna Matthew calls on healthcare institutions to "realign" away from the "social norm" of unconscious racism.[107] Only then can we align our shared interests and goals as "neighbors being neighborly" rather than as saviors and heroes.

Turning again to Dr. Camara Jones, the notion of losing the human potential to the structures of racism should drive our practice as legal advocates for the poor and as community neighbors. If we believe that community members have the capacity and the right to lead themselves, then dismantling racism becomes our primary goal. And, dismantling racism can only come about when marginalized people realize their own power and right to lead themselves. Dr. Jones urges, "Just imagine where our nation would be if we truly valued all of our people as precious resources, and allowed each the opportunity to know and develop to their full potential."[108] This is the power of centering race.

---

[103] *Id.*, at 458.

[104] Matthew, *supra* note 23, at 138. ("[P]olicies designed to eliminate racial discrimination in housing and employment [based on these assumptions] have historically failed.") (citing Williams *supra* note 23).

[105] *See generally* Charles R. Lawrence III, *The Id, The Ego, and Equal Protection: Reckoning with Unconscious Racism*, 39 STAN. L. REV. 317 (1987); *See also* IMPLICIT RACIAL BIAS ACROSS THE LAW (Justin D. Levinson & Robert J. Smith, eds., 2012).

[106] *See* Jones, *supra* note 14, at 9-10 and Part III. B.; *See generally* Lawrence *supra* note 69; *See also* Quigley *supra* note 30, at 474 ("Be willing to confront the lawyer's own comfort with an unjust legal system.").

[107] Matthew, *supra* note 23, at 3.

[108] Jones, *supra* note 14, at 10.

Jones offers some concrete steps to confronting institutionalized racism.[109] These include first committing to "naming racism in order to address racial disparities in health and in other aspects of life which impact on health (including education, employment, and economic segregation)." The second step is "understanding the local mechanisms and impacts of racism" including asking the question, "How is racism operating here?" The third and final step is "acting to dismantle racism" by "mobiliz[ing] the political will for action." Jones argues that while this process of confronting institutionalized racism "may seem overwhelming, it is not." Yet failure to take these initial steps may mean that "we abandon all hopes for success in our struggle for social justice and health equity."

At MLP Hawai'i, we recognize that discrimination impacts the core of both individual and structural relationships. This demands an approach of building trust and collaboration with communities by centering race. And when trusted relationships are established—ones that acknowledge our racial as well as economic realities—only then is deeper engagement possible to address power and, ultimately, to challenge structural and systemic racism together.

IV. CENTERING RACE AT MLP HAWAI'I

Centering race and developing a racial justice vision are central to the work of community lawyering. At MLP Hawai'i, staff and law students read and discuss excerpts from Gerald Lopez's foundational work, "Rebellious Lawyering: One Chicano's Vision of Progressive Law Practice."[110] Rebellious lawyering challenges the formal, top-down approach to law that permeates legal education and professionalism, including public interest practice and progressive lawyering in the U.S.[111]

---

[109] *See* Jones, *supra* note 14, at 18-20 for discussion pertaining to confronting racism; *see also* Stephanie M. Wildman et al., *Revisiting the Work We Know So Little About: Race, Wealth, Privilege, and Social Justice*, 2 U.C. Irvine L. Rev 1011, 1019-22 (2012) (suggesting employing "color insight" to "counter the idea of colorblindness," especially within the law school curriculum).

[110] *See generally* Lopez, *supra* note 4; *See also* Angelo N. Ancheta, *Community Lawyering,* 81 CAL. L. REV. 1363-1399 (Oct. 1993); *See also* Charles R. Lawrence III, *Sustaining the Struggle for Justice: A Program Review of the Basic Rights Portfolio* (Aug. 1, 1992) (prepared for The Rockefeller Foundation) (on file with author).

[111] *See generally* Bellow, *supra* note 28; *See also* Sylvia A. Law, *Health Care and Social Change,* 19 Clearinghouse Review 419, at 422 (1985) ("Law schools do not equip people to analyze complex social institutions or to participate in the creation of organizations that serve and empower clients."); *See also,* Ancheta *supra* note 110, at 1397 ("[A]dvocating for change under a system of laws and legal institutions that disfavors change and limit possibilities for change is the dilemma with which progressive lawyers and legal workers struggle every day."); *See also* Charles R. Lawrence III, *Two Views of a River: A Critique*

An often cited passage from "Rebellious Lawyering" describes the practice of "lawyering against subordination":

> In this idea—what I call the rebellious idea of lawyering against subordination—lawyers must know how to work with (not just on behalf of) women, low-income people, people of color, gays and lesbians, the disabled, and the elderly. They must know how to collaborate with other professional and lay allies rather than ignoring the help that these other problem-solvers may provide in a given situation. They must understand how to educate those with whom they work, particularly about law and professional lawyering, and, at the same time, they must open themselves up to being educated by all those with whom they come in contact, particularly about the traditions and experiences of life on the bottom and at the margins.[112]

Rebellious lawyering calls on us to break through the trappings of our professions,[113] to listen to and value the narratives and problem-solving of subordinated people,[114] and to develop relationships of shared power and decision-making with the clients and communities we serve. This work demands a fundamental shift in attitude; it requires the belief that poor and marginalized people have the capacity to assess the effects of racism and economic deprivation and the right to lead their own communities and shape their own futures. Anything less, according to Eric

---

of the Liberal Defense of Affirmative Action, 101 Colum. L. Rev. 928, 966 (2001) ("Those with power, including the liberal defenders of affirmative action, may rely on the mystifying power of law to make their privilege seem legitimate to themselves as well as to subordinated others, and it surely unsettles them when subordinated people challenge the legitimacy of the very system that defines justice. But once the mask comes off, and liberals must resolve the conflict between justice and privilege, they may find that privilege in an unjust world has few comforts.").

[112] Lopez, *supra* note 3, at 37.

[113] *See generally Medical-Legal Partnership for Children in Hawai'i,* HIGHLIGHTS FROM 2014 (Annual Newsletter, Honolulu, Hawai'i) (on file with author) ("We're not just professionals reaching across disciplines, we're professionals reaching through the trappings of professionalism to work hand-in-hand, side-by-side, with our patients, our clients, our children—our community.").

[114] Lopez, *supra* note 3, at 57-62 ("Still, with training and practicing, all lawyers can reorient their work to express the highest regard for a client's understanding of his situation: They can come to know what's going on and how to operate amid (and even reverse and amend) terms not of their own making and effectively outside their control."); *See generally* Anthony Alfieri, *Reconstructive Poverty Law Practice: Learning Lessons of Client Narrative*, 100 YALE L. J. 2107 (1991); *See generally* White *supra* note 89; *See generally* Quigley *supra* note 30.

Yamamoto, "undermines the notion of justice through legal process. It pulls law away from racial justice."[115]

At MLP Hawai'i, we practice rebellious lawyering in several ways. First, all staff and law students read about rebellious lawyering (Gerald Lopez), racial justice (Camara Jones), and poverty (David Shipler), and learn about the history, culture, and politics of the communities we serve.[116] Second, we regularly re-visit our community-centered praxis, critiquing our approaches to case management and client encounters, workshop planning, and policy engagement—seeking to tip the balance of skills, knowledge, and power back to affected communities. Much of our self-examination also occurs in dialogue with traditionally underserved and subordinated community members, including clients, colleagues, policy partners, and community "neighbors" and friends. Finally, even as we may share some characteristics and experiences with our clients and partner communities, we examine and challenge our own privileges, including how we benefit from and may serve to perpetuate unequal systems.[117]

Through each MLP Hawai'i "service" (from individual cases to self-advocacy academies to policy matters), MLP staff works to decrease our presence and role, shifting the balance of knowledge, power, and decision-making towards those most affected until we are working together as equals and as neighbors with a collective stake in our shared future. This is how we work to promote the self-advocacy and leadership of marginalized people and challenge institutional racism. Stories from the field illustrate these efforts.

A. Stories From the Field

Since starting the MLP Hawai'i in 2009, it is difficult to think of a case that has not been tinged with racial bias. Nearly all MLP patient-clients live at or below federal poverty level and are considered racial minorities in the United States (Pacific Islander, Asian American, Native

---

115 Yamamoto, *supra* note 74, at 852.

116 For example, the MLP Clinic syllabus includes: POVERTY, HEALTH AND LAW: READINGS AND CASES FOR MEDICAL-LEGAL PARTNERSHIP (Elizabeth Tobin Tyler, et al. eds, 2011); DAVID SHIPLER, THE WORKING POOR: INVISIBLE IN AMERICA (2008); GERALD P. LÓPEZ, REBELLIOUS LAWYERING: ONE CHICANO'S VISION OF PROGRESSIVE LAW PRACTICE (1992); Camara Phyllis Jones, *Confronting Institutionalized Racism*, PHYLON (2003); Camara Jones, *Levels of Racism: A Theoretical Framework and A Gardener's Tale*, 90 AM. J. OF PUBLIC HEALTH (Aug. 2000); Michael Marmot, *Social Determinants of Health Inequalities*, 365 THE LANCET (Mar. 19, 2005); Chen Kenyon, et al., *Revisiting the Social History for Child Health*, 120 PEDIATRICS (Sept. 2007); Jon Letman, *Micronesians in Hawaii face uncertain future*, AL JAZEERA (Oct. 3, 2013).

117 *See generally* Lawrence, *supra* note 111.

Hawaiian). Our primary health center partner is located in Kalihi Valley, a common first stopping point for new immigrants to O'ahu Island,[118] including a significant number of migrants from the Micronesian region of the Pacific. Citizens of the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau have migrated to the United States and its affiliated territories under a Compact of Free Association (COFA), first established in 1986.[119] The COFA agreement allows nearly unrestricted, indefinite immigration in exchange for the "exclusive military use rights" by the U.S. over their vast Pacific Islands region.[120] Even among Hawai'i's celebrated diversity, Micronesians comprise Hawaii's newest, most visible—and most targeted—racial group.[121]

Consider the following comments by Micronesian clients to MLP Hawai'i legal staff:

> "I just feel like the housing manager treats us different than other groups."[122]
>
> "My case manager told me I didn't need an interpreter."

---

[118] U.S. Census Bureau *supra* note 52; *See also* Jarmon, *supra* note 2. While beyond the scope of this article, our work is located in Hawai'i, a site of abundant and resilient indigenous roots, political overthrow, and ongoing settler colonialism. Addressing the complexities of race and indigeneity are vital and deeply challenging, as well as opportunities for growth, learning, and connection.

[119] *See generally* Compact of Free Association, Marshall Islands - U.S., Apr. 30, 2003, 04 U.S.T. 501; United States Government Accountability Office, *Compacts of Free Association: Improvements Needed to Assess and Address Growing Migration*, GAO-12-64 4-5 (Nov. 2011), https://www.gao.gov/assets/590/586236.pdf; U.S. Government Accountability Office, *Compact of Free Association: Micronesia Faces Challenges to Achieving Compact Goals*, GAO-08-859T 4 (June 10, 2008).

[120] At the close of World War II, the United States began nearly four decades of administering the Micronesian islands under the Trust Territory of the Pacific Islands. As "trustee," the U.S. engaged in unprecedented nuclear testing on, and the annihilation of significant portions of, the Marshall Islands. Little was done to fulfill the express goal of "economic development and self-sufficiency."

[121] *See, e.g.*, Chad Blair, *No Aloha for Micronesians,* CIVIL BEAT, June 10, 2011, http://www.civilbeat.org/2011/06/11650-no-aloha-for-micronesians-in-hawaii/; Nelson Daranciang, *At Sentencing, Lawyer Slams Micronesians*, HONOLULU STAR-ADVERTISER, Jan. 28, 2012; *See also* Lawrence *supra* note 88, at 459-473; *See* Seiji Yamada, Editorial, *Discrimination in Hawai'i and the Health of Micronesians and Marshallese*, 3 HAW. J. OF PUBLIC HEALTH, Jan. 2011 at 55-57; *See also* Megan Inada Hagiwara, Racial Discrimination, Health, and Healthcare in Hawai'i's Chuukese Community (May 2016) (unpublished DPH dissertation, University of Hawai'i at Mānoa) (on file with author).

[122] These quotes are paraphrased portions of personal conversations with MLP clients and community members.

> "Why is my son getting suspended from school for fighting? The school never did anything when he was being bullied."
>
> These comments are often followed by, "It's because we're Micronesian."

Statements like these are rarely named by our clients as being central to their legal problems. They come up incidentally, sometimes as an afterthought, yet they reflect the ubiquitous reality of racism lingering behind the legal matter at hand. Over time and with trust, we hear what's really going on. Uncovering these stories requires time and trust between attorney and client because these harsh truths are not easily spoken.[123] Once revealed, we cannot ignore how racism limits our clients' ability to self-advocate and our ability to resolve problems with traditional legal remedies. Once revealed, narrow legal solutions become less important than remedies that address differential power and unequal institutional structures.

Health providers report similar stories of discrimination against Micronesians. For example, doctors at community health centers that serve Micronesian patients report being told by private medical specialists, "We don't take patients from your clinic."[124] And medical students hear complaints from their attending physicians, "Everybody is sick of caring for and wasting their taxes on these people that have no appreciation for what is being done for them," and "[they] fake their illnesses to stay in the hospital for free food and board."[125]

These comments echo government refrains, which in turn are highlighted by the media, that pose Micronesians as "undeserving others" against citizen taxpayers. For example, in 2009 during a struggle over state-funded healthcare access for COFA migrants to Hawai'i, the state Department of Human Services Director, Lillian Koller, said, "It is [ ] time for federal officials to fully reimburse Hawai'i taxpayers for all we do to

---

123 Natanya Friedheim, *Baby Death Lawsuit Cites A Hospital Language Barrier*, CIVIL BEAT, Dec. 1, 2016, http://www.civilbeat.org/2016/12/baby-death-lawsuit-cites-a-hospital-language-barrier/ (The article features the rare case of a Micronesian family suing a hospital for medical malpractice and civil rights violation, including denial of language access. The general lack of reporting about problems accessing interpretation and translation services was noted by Helena Manzano, Executive Director of Hawaii's Office of Language Access, "People in Hawaii tend not to complain, . . . so we don't know if these services are happening.").

124 Yamada, *supra* note 121, at 56.

125 *Id.*, at 56.

improve the lives of COFA migrants."[126] She also told a legislative committee that COFA migrants should be considered "deportable" if they accepted public assistance.[127] This, despite the fact that COFA migrants pay all local, state, and federal taxes, while being denied access to federal programs like Medicaid and food stamps.[128] The unsurprising results of institutionalized racism are interpersonal acts of hate, like the 2013 graffiti scrawled on the newly opened Micronesian Mart business that read, "Return my tax dollars."[129] In another incident, red paint was thrown on the door of the Marshallese Consulate offices in Honolulu along with a hate note.[130] Neither of these incidents were reported to the police. Aptly expressing the connections between policy actions and societal responses, one Chuukese woman shared, "I really feel personally that when the state singled out our community to put us on a different health plan, it's almost like its giving permission to the community to lash out on us."[131] As MLP legal advocates, this knowledge informs how we approach our client interactions, our educational efforts, and especially the systemic advocacy and policy mandate of NCMLP.

Micronesian interpreters are in a unique position, often experiencing discrimination both personally and as witnesses. Nia Aitaoto, a scholar with roots in Hawai'i, Samoa, and Micronesia shared the discrimination that instantly manifests with a simple change of clothing: "when I put the [Micronesian] skirt on, it is just magic. It's like I put a target on. People treat me differently."[132] Another interpreter described an encounter with a welfare benefits case worker, "he was telling them, 'Why are you here? 'Cause no more money in Chuuk, that's why you're here?' [and I interpreted this and he yelled] 'Why are you talking?! I wasn't

---

[126] *Health plan faces legal challenge*, HONOLULU STAR-BULLETIN, Aug. 29, 2009, http://archives.starbulletin.com/content/20090829_Health_plan_faces_legal_challenge.

[127] Blaine Rogers & Elizabeth Dunne, *Treatment of COFA residents intolerable,* HONOLULU ADVERTISER, Mar. 1, 2010, at A6.

[128] Hawai'i Appleseed Center for Law and Economic Justice, Policy Brief, *Broken Promises, Shattered Lives: The case for justice for Micronesians in Hawai'i*, Nov. 17, 2011 at 3.

[129] Micronesia Mart, *Timeline Photo*, FACEBOOK (May 31, 2013) https://www.facebook.com/390746624366956/photos/a.420840891357529.1073741831.390746624366956/420840894690862/?type=3&theater ("Fun Fact: It is a common misconception that Micronesians don't pay taxes in the US. However, working Micronesians are required to pay the same taxes that Americans pay—property taxes, income taxes, etc . . . the power of ignorance! want's his/her tax money back so he/she wastes it on paint, time, and labor. we've decided to save all our tax money and not waste it on calling the cops.").

[130] Personal conversations with former RMI Consul General to Hawai'i, Noda Lojkar.

[131] Hagiwara, *supra* note 121, at 60.

[132] Blair, *supra* note 121; *See also* JACL Honolulu, *We Hold These Truths (WITH INTRO)*, YOUTUBE (May 9, 2013), https://www.youtube.com/watch?v=hpsPeVyuyE8.

talking to you!' . . . I felt so small, I wanted to disappear."[133] The interpreter ended by saying, "I keep telling myself not to worry about it . . . but inside me it feels so tense, sorry to say that." She apologized for complaining about vitriolic discrimination by a government agency worker.

Indeed, apologies and resignation commonly accompany stories of discrimination, leaving these racial realities largely unreported and uncounted. In a 2011 news article titled, "No Aloha for Micronesians," William Hoshijo, Executive Director of the Hawai'i Civil Rights Commission, reported that "less than 1 percent of discrimination complaints filed with [the Hawai'i Civil Rights Commission] over the past three years have come from COFA complainants."[134] While the numbers are small, Mr. Hoshijo continued, "[this] does not necessarily mean that this group does not face discrimination in Hawai'i at a rate higher than other groups." Mr. Hoshijo explained, "Those who face discrimination on a regular, daily basis may tend to accept it as unremarkable, part of everyday life, rather than something to complain about and seek redress for."[135] This is the daily reality for many MLP clients.[136]

When we receive these stories of discriminatory treatment—and when clients refuse to complain or even to centralize race as part of their own immediate problem—we often set aside the narrow legal work in favor of self-advocacy. For example, in cases that we are barred from assisting (criminal justice inquiries) or after we have already completed the necessary legal tasks (drafted a letter to a landlord, called the case manager, etc.), MLP Hawai'i staff takes the extra time to teach self-advocacy that is responsive to their unfair treatment. This includes, for example, providing them with a notebook and explaining how to take notes to document their encounters; explaining how to keep copies to build their own records; and practicing what to say to preserve their rights. We encourage them to push back on unfairness and encourage them to say, "I need to ask my lawyer first." This almost always elicits laughter because it is something only rich people say. Yet, numerous clients return with stories of success after invoking this power.

Knowing that new immigrant populations (and those "at the margins") are not likely to raise complaints about discriminatory treatment, special care must be taken to make space and listen for stories that reveal these racial realities. The traditional focus on "the law" as the

---

133 Hagiwara, *supra* note 121, at 61.

134 Blair, *supra* note 121.

135 *Id.*

136 Shortly after publication of this article, Mr. Hoshijo contacted MLP Hawai'i to develop "Know Your Rights" and self-advocacy curriculum on civil rights for Micronesian communities in Hawai'i. This effort continues today.

solution for narrow legal matters can make client voices seem a distraction, a waste of time, and unnecessary. Instead, we work to foster and support spaces where we can have these conversations, listen to our clients' stories, and support the capacity of our clients, colleagues, and neighbors to push back, organize, and be heard.[137] In short, to realize their power.

B. Focus on Advocacy Academy

In mid-2015, MLP Hawai'i was invited to conduct a series of educational workshops for welfare recipients[138] who participate in the *Seams Wonderful* sewing program of the KKV health center.[139] We were asked specifically to "share information about work-related benefits and tax credits, income documentation, employment discrimination and ensuring fair wages."[140] During our first planning meeting with Amenina Opet, the *Seams Wonderful* project coordinator and a former small business owner from Chuuk, Micronesia, we quickly decided that our work together should do more than merely "share information" with the mostly Micronesian migrant women of the sewing program. MLP staff incorporated teaching "policy," engaging in hands-on learning, and creating space to listen to participant stories of challenges and successes. From our shared belief that every participant has the right and the capacity to shape the responses to their racial and economic realities, the "Advocacy Academy" model quickly developed.

A typical Advocacy Academy session is scheduled for about 1-1/2 hours, starting around 9:30am or 10:00am. The class meets in the "sewing room" where the participants regularly work and gather, and sometimes food and drinks are shared. The atmosphere is informal and the

---

[137] *See* Lucie E. White, *Goldberg v. Kelley on the Paradox of Lawyering for the Poor*, 56 BROOK. L. REV. 861, 887 (1990) ("Rather than seeking any more remedies *for* the poor, we might hesitate for a moment before filing another lawsuit, even if we think we know exactly how to frame a winning claim. Instead, we might look around us for spaces where poor people can talk among themselves about what they want to do. We might help to secure those spaces, doing what we can to make those spaces safer and more accessible. We might also try to listen to poor people's political conversations, not as expert advisors, but as learners and as friends.").

[138] More properly, the participants were recipients of Temporary Assistance to Needy Families (TANF), a federal "welfare" benefit administered by the United States Department of Health & Human Services. In this article, I use "welfare" to include TANF and similar benefits.

[139] The KKV *Seams Wonderful* program was established in 2008 to provide training in sewing which has "increased vocational opportunities while also promoting a sense of belonging, community and self-empowerment for Kalihi's low-income women." *See* KKV, *Growing Health in Kalihi Valley, 1972-2015*, ANNUAL REPORT 7 (2016).

[140] E-mail from Laura Taylor, KKV staff, to author (Mar. 19, 2015, 2:12 P.M.) (on file with author).

start times are flexible, accounting for both cultural norms and the realities of daily life. Academy begins with a dynamic presentation about a rights issue (e.g., language access, housing, public benefits, family law) that often includes role-playing common scenarios.[141] Basic lessons are shared about the mechanics of the law, regulations, and procedures. Participants will then practice self-advocacy skills, including, for example, taking notes during class, role-playing various scenarios, practicing to request documentation, or simply repeating, "I need an interpreter!" Advocacy participants often then share their own experiences and stories of barriers and of success when navigating complex and unfriendly systems. In this safe space, race stories, including triumph over discriminatory encounters and systems, are shared. At the end of each session, participants are asked to suggest future topics to explore.

Advocacy Academy moves beyond traditional "know your rights" workshops in two ways. First, by teaching skills, through hands-on, experiential learning, for navigating complex systems. Second, by consciously incorporating policy knowledge so that these family navigators[142] understand not only *what* is happening to them, but *why*, and to whose benefit. For example, in a unit about public benefits and reporting requirements, MLP staff explained that the state automatically triggers a child support case against the non-custodial parent when only one parent files for welfare benefits, regardless of the reason.[143] Rather than simply "teaching" them about how to navigate the system ("Be sure to report change of household to the welfare office and the child support office!"), they now know why the state intercepts their child support benefits (simply, the state wants its money back). They also practiced how to self-advocate in the face (literally) of unkind and discriminatory gatekeepers. This example may shift perceptions of "welfare" as a charitable and paternalistic act to a more transactional act. Embedded in this lesson is an assessment of the ways that racial depictions along with economic

---

[141] For example, MLP staff roleplay as parents to explain family law concepts of custody, paternity, and child support. Participants also roleplay as clients confronting an unfriendly case manager during a workshop about public benefits.

[142] The women in the inaugural Advocacy Academy class were mostly Chuukese migrants living in public housing. Even with traditional, intact family units (mother, father, children, and extended family members), the women were often listed as the "head of household" on their housing leases, and acted as the primary navigators of their families' housing, benefits, healthcare, and education matters.

[143] This discussion stemmed from individual cases and client stories about applying for welfare benefits when their husband or boyfriend was away for personal reasons, often caregiving for a sick or dying relative "back home" in Micronesia. Upon return, that parent unknowingly continued to accrue significant child support debts, which the state would seek to recover rather than return to the family.

conditions influence their treatment.[144] Ultimately, what they do with the "why" is where their potential power exists.

MLP staff dubbed it "mini law school," emphasizing the level of knowledge, skills, and capacity of the immigrant women participants.[145] A survey of our Advocacy Academy participants conducted with a public health evaluator found that they had asserted their rights—successfully—in areas of housing (preventing evictions and avoiding bad leases), healthcare (especially for language access), civil rights, and other areas. Significantly, they had also shared the information they learned with dozens more family members, neighbors, and church friends.

Illustrating rebellious lawyering goals, this effort led to increased individual advocacy ("Since I started with this advocacy program, I know my rights! And I feel stronger about asserting my rights."), and it contributed to community knowledge ("When I get home after class, I teach my kids what I learned."). One Chuukese grandmother and family matriarch who faithfully participated in every class shared, "I feel like I was blind and now I can see!" Not surprisingly, she was one of the four Advocacy Academy participants who signed up as a client with our law school's Small Business Clinic to start setting up her own sewing business.[146]

C. COFA Community Advocacy Network

After years of working alongside Micronesian and Marshallese community leaders on healthcare policy issues, in 2011 MLP Hawai'i staff helped to form an *ad hoc* group that later became "COFACAN," the COFA Community Advocacy Network.[147] COFACAN was born out of hours of discussions, both formal and informal, about pressing health policy and health justice matters; and each "issue" always circled back to discrimination and racism against Micronesians in Hawai'i. Around this time, we were meeting regularly as a small group of Micronesian

---

144 *See generally* Yamamoto, *supra* note 74.

145 The name "mini law school" elicits a range of responses. Participants laugh and smile at the notion that they could be in law school. Yet lawyers, including public interest ones, often express concern about the comparison, reflecting unstated bias against sharing the power of legal knowledge with those they see as unlikely attorneys.

146 In 2016, MLP engaged the Small Business Clinic course at the William S. Richardson School of Law (University of Hawai'i) with Professor Gregory Kim to bring pro bono services to the KKV health center community.

147 This effort grew out of gatherings with members of the Micronesian Health Advisory Coalition, Micronesians United, and other community leaders and advocates. Initial participants included Dr. Joakim "JoJo" Peter, Dr. Sheldon Riklon, Linda Riklon, Innocenta Sound-Kikku, Dr. Wilfred Alik, Carmina Alik, Wayne Tanaka, Deja Ostrowski, Randy Compton, Dr. Neal Palafox, Dr. Seiji Yamada, and Dawn Mahi.

community leaders and advocates primarily to address *Korab v. Koller*,[148] the class action litigation to challenge severe cuts to healthcare access for Micronesians in Hawai'i.[149] MLP Hawai'i was not *of counsel*, but rather played an early role in bridging communication between the legal team and the community,[150] and ensuring community education and input about the legal matters.[151] In addition to the trust and friendships we had built, we were granted this critical role after spending time observing, discussing, and centering racial realities faced by our community partners and consciously developing strategies to combat institutional racism and challenge racial and economic privileges.

COFACAN is organized and led by Micronesian community members with support by non-Micronesian attorneys and other advocates. Its primary focus is policy matters, particularly organizing to restore Medicaid benefits for the COFA population at the state and Federal levels.[152] With no paid staff, COFACAN volunteers organize meetings to share legal and policy information,[153] develop educational and policy resources,[154] and organize policy-related actions.[155] COFACAN also

---

148 *Korab v. Koller*, No. 10–00483, 2010 WL 5158883 (D. Haw. Dec. 13, 2010).

149 For more perspectives, see Amici Curiae Brief of the JACL-Honolulu Chapter, Korab v. McManaman, No. 11-15132, 2011 WL 3672693, at *3 (9th Cir. Aug. 24, 2011); *See also* Megan Kiyomi Inada Hagiwara et al., *Litigation and Community Advocacy to Ensure Health Access for Micronesian Migrants in Hawai'i*, 26 J. OF HEALTH CARE FOR THE POOR AND UNDERSERVED 13-45 (2015).

150 For example, MLP organized meetings between the law firm attorneys and COFACAN representatives at the public housing site where numerous class members lived.

151 MLP organized a community event to gather additional healthcare stories from Micronesian and Marshallese community members, engaging volunteer interpreters and UH law and public health students to collect testimonies. This event was organized in partnership with the non-profit *Korab* law firm, Hawai'i Appleseed (then called Lawyers for Equal Justice) and included a community Q&A session with the lead attorneys. MLP staff and partners also hosted fundraisers on behalf of the Micronesian community to support their litigation efforts.

152 *See generally* Hagiwara, *supra* note 149.

153 For example, three days after the Ninth Circuit decision in the *Korab* case, COFACAN organized a meeting of dozens of community members to learn about and discuss the decision (with the assistance of community lawyers, including MLP) and to develop strategies for community education and policy work. COFACAN also posted e-mail alerts and website updates (on http://www.healthypacific.net/blog) regarding policy and health justice matters, including health insurance enrollment activities.

154 *See* www.HealthyPacific.net for more resources.

155 COFACAN actions included meeting with Hawai'i Senator Mazie Hirono to discuss COFA-related health, immigration, and discrimination concerns; leading the passage of a 2013 Hawai'i State Resolution "urging the U.S. Congress to include resident citizens of Freely Associated States [for federal benefits] in recognizing their unique historic and ongoing sacrifices and contributions to the United States of America"; participating in

connects with Micronesian leaders across the state to share resources and policy strategies while also developing advocacy and leadership skills. While working with COFA communities in other states, we pursued plans for a national gathering.

In 2017, COFACAN advocates worked with community leaders in Oregon and Arkansas as well as staff of the Hawai'i Community Foundation to submit a proposal for funding to host a national gathering to coincide with a Pacific health conference in Honolulu, Hawai'i. The successful proposal to the Four Freedoms Fund emphasized, among other things, the importance of coordinated community empowerment and strategic responses to discrimination:

> Back home, we are three different Pacific Island nations, but as COFA migrants to the U.S. we share the same uncertain legal status, seek the same opportunities to serve and contribute to our adopted communities, and face the same discrimination and barriers, especially regarding policy matters that affect all aspects of our well-being and daily lives . . . .
>
> This project is about building community power and strengthening our ability to respond to the shifting and critical changes that profoundly affect the well-being of our communities. We propose to strengthen our local and national capacity by using the tried and true methods of community organizing and network building at the local, state, and national levels. We will especially focus on healthcare access, which has been a common problem throughout our local communities. Also common among our diverse locales is the need to address issues of discrimination and equal justice that impact healthcare, education, housing, language access, immigration status, and basic civil rights.[156]

We received a $15,000 grant to support travel and meeting costs for a convening of COFA community leaders in Hawai'i on October 6, 2017.[157] This event included Micronesian, Marshallese, and Palauan

---

public demonstrations to advocate for healthcare access; meeting with state administrators regarding health insurance enrollment.

[156] Proposal to the Four Freedoms Fund, dated August 31, 2017, on file with author.

[157] The grant also supported a Hawai'i statewide gathering of Micronesian leaders and stakeholders organized by We Are Oceania on September 20, 2017. This event had additional support from the Federal Reserve Bank of San Francisco and Faith Action for Community Equity (Hawai'i).

leaders from Hawai'i, Oregon, Arizona, Texas, and Arkansas. The full day's agenda was led and facilitated by the Micronesian leaders; non-COFA participants served as notetakers and organized the food and logistics. Micronesian and non-Micronesian advocates had worked collaboratively in the planning, but we adopted roles to avoid repeating racial and social hierarchies. We were joined later in the day by additional community members and non-COFA advocates to discuss specific strategic and policy matters (i.e., health insurance, data collection, driver's license renewals, community organizing, and civic engagement).

While we are at the beginning stages of building this organized, COFA national network, it was born from years of talking race. From various racial, cultural, and economic starting points, we centered racial justice by strengthening COFA political power and reinforcing local community successes. At our national gathering, we heard examples of organizing sports events as community building;[158] passing major legislation to improve access to healthcare,[159] dental care,[160] and civil service;[161] and convening federal and state administrators to address discriminatory practices embedded in the REAL ID Act.[162] Collectively, we committed to both practical solutions (for example, promoting Employment Authorization Documents to address ID renewal issues and organizing linguistically and culturally appropriate healthcare enrollment) as well as policy remedies.[163]

---

[158] From Hawai'i and Arizona to Texas and Arkansas, organized sports tournaments bring together Micronesian community members for sport while also addressing important social and political issues.

[159] Legis. Assem., H.B. 4071, 78th Gen. Assemb., Reg. Sess. (Or. 2016) (establishing the state-based COFA Premium Assistance Program to supplement COFA health insurance premiums and all out-of-pocket expenses) and Legis. Assem., H.B. 2522, 78th Gen. Assemb., Reg. Sess. (Or. 2015) (directing a formal study and recommendations for a premium assistance program for COFA islanders in Oregon).

[160] Legis. Assem., S.B. 147, 79th Gen. Assemb., Reg. Sess. (Or. 2017) (directing a formal study and recommendations for adding dental coverage to the COFA premium assistance program).

[161] Legis. Assem., H.B. 2594 79th Gen. Assemb., Reg. Sess. (Or. 2017) (expanding the citizenship requirement to allow COFA migrants to serve as law-enforcement officers in Oregon); H.B. 1534, 2017 Leg., 29th Sess. (Haw. 2017); H.B.1 SD2, 2017 Leg., 29th Sess. (Haw. 2017) (expanding citizenship requirements to allow COFA migrants to serve on boards and commissions in Hawai'i).

[162] THE DEPARTMENT OF HOMELAND SECURITY, https://www.dhs.gov/real-id-public-faqs (The REAL ID Act (2005) was intended to "set standards for the issuance of sources of identification, such as driver's licenses."); The Act includes outdated language referring to the "Trust Territory of the Pacific Islands" which has not been in effect since 1986. COFA-based identification is excluded from the Act, which has led to COFA migrants being required to renew their IDs every year.

[163] See Letter from Ambassadors from FSM, RMI, and Palau, to author (Nov. 29, 2017) (on file with author) (seeking "minor technical amendments to the REAL ID Act").

These two efforts, Advocacy Academy and COFACAN, illustrate how a racial justice approach to our MLP work builds trust with our clients and transforms our relationships to allow for community lawyering that promotes community building. Asking questions and listening to stories about the racial realities of our clients and community partners informs our understanding of the limits and opportunities of what law and legal services offer in promoting justice.[164] This in turn informs our work to promote the autonomy and power of a marginalized community. We seek to create results that are "democracy enhancing." Our purpose is to, in the words of legal scholars Lani Guinier and Gerald Torres, "open[ ] up space to those previously excluded or marginalized and enable[ ] them to participate more fully in helping to make decisions that affect their lives."[165]

V. CONCLUSION

> "Freedom, by definition, is people realizing that they are their own leaders."
>
> - Diane Nash[166]

When I was first grappling with this article, I sat down with legal scholar Mari Matsuda for a quick lunch and talk. At the end of our discussion about rebellious lawyering, privilege, and community organizing, I said, "I just want to teach and work with people who believe that the communities we work with have the capacity and the right to lead themselves." Mari replied, "Right. And anything else is racist." I was at first taken aback because I hadn't specifically mentioned race (although she knows that most of my clients are Micronesian migrants). I suddenly saw that Matsuda was reflecting Camara Jones's definition of racism as a system that "structures opportunity and assigns value" in a way that "undermines realization of the full potential of our whole society because of the waste of human resources."[167] So, when we assume that *any* community does not have the power, capacity or right to lead themselves and realize their full potential, this is racism at work and we are all harmed by it.

---

164 *See* discussion *infra* Part III.

165 Lani Guinier & Gerald Torres, *Changing the Wind: Notes Towards a Demosprudence of Law and Social Movements*, 123 YALE L.J. 2740, 2749-50 (2013-14).

166 Kathleen J. Fitzgerald & Diane M. Rodgers, *Radical Social Movement Organizations: A Theoretical Model*, 41 THE SOC. QUARTERLY 573, 579 (2000).

167 Jones, *supra* note 14, at 9.

Today, as we endure an intensely hostile White House—one that embraces and promotes white supremacy, disparages poor people, vilifies immigrants, and degrades women—community power from the ground up is more important than ever. In a political era when our so-called democratic institutions and court systems are not serving the interests of poor and non-white communities, we need more, not less, robust civic engagement by those most vulnerable to white supremacist systems. Stephen Wexler, law professor and former attorney for the National Welfare Rights Organization, famously wrote over forty years ago, "If poverty is stopped, it will be stopped by poor people."[168] In this way, the MLP National Network could become an instrument for racial justice or a barrier to civic engagement.

Someone who clearly understood the necessity of civic participation is Dr. Jack Geiger, the father of community health centers and a mentor and champion for the MLP movement. In 1970, a short documentary called "Out in the Rural" highlighted the work of the Tufts-Delta Health Center in rural Mississippi, one of the first community health centers in the United States. Jack Geiger founded the health center on the "primary thesis that the determinants of health are in the social order, not in health care."[169] Much like the MLP model, Geiger viewed "health services as a route of entry for other kinds of social change."[170] What's missing from the current MLP model, however, is Dr. Geiger's broader vision of social change and community empowerment, framed in opposition to the prevailing "white, power structure."[171] In the documentary, he outlined that goal for organizing for social change:

> Our goal is to make change in the social order . . . So our task has been to organize people, to help them organize themselves, to encourage them to articulate their own needs, and then to give them the technical assistance to

---

168 Stephen Wexler, *Practicing Law for Poor People*, 79 YALE L. J. 1049, 1053 (1970); *See also* Quigley, *supra* note 30, at 455, note 2 (describing this quote as "an 'autocite' for writers about advocacy with poor and powerless people.").

169 Judy Schader Rogers, Community Health Action, *Out in the Rural*, VIMEO (1970), https://vimeo.com/6659667.

170 *Id.*

171 *Id.*, (Dr. Geiger states, "I don't know if some of the Mississippi white power structure cares about dead black babies or not. But if they don't, even they can't afford to say so publicly. We have been able . . . to do things under the general umbrella of health that would have been much harder to do if we had said we were here to do economic development or for social change per se.")

> act to meet those needs. That's what a community health program is, and that's what we've been trying to do.[172]

Dr. Geiger's vision of community health justice—rooted in racial and economic realities—is the critical upstream approach that should be centered within the larger MLP national vision. Creating perpetual clients within a traditional legal services model does little to change the power dynamics for vulnerable community members and hinders fully engaged citizenship.[173] We can do better. MLP practice, with its emphasis on upstream change and systemic advocacy, is perfectly situated to center racial and economic justice. In Hawai'i, we have fully embraced the MLP model and centered it around the racial and economic realities of our clients and community partners. And working "with (not just on behalf of)" those "at the margins,"[174] we pursue a racial justice vision focused on self-advocacy and building community power.

---

[172] *Id.*

[173] Quigley, *supra* note 28, at 246-247 (Significantly, aspects of community empowerment and organizing were part of the origins of the current Legal Services Corporation model. Coming out of the 1964 Office of Economic Opportunity, a program of President Lyndon B. Johnson's War on Poverty, the Legal Services Programs (LSP) ultimately turned to "law reform-test cases, legislative advocacy and other efforts to change the laws and practices forming the legal, social, and economic structures of poverty." But among the original "competing priorities" of the LSP were "community organization-organizing poor people into pressure groups to force economic and political change." at note 29.) *See generally* McKnight *supra* note 70 and Part III. A.

[174] Lopez, *supra* note 3, at 37.